



State of California
Office of the Attorney General

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**ATTORNEY GENERAL BONTA CALLS FOR STATE POLICYMAKERS AND
CRIMINAL JUSTICE LEADERS TO ACT TO PROTECT AND EXPAND THE RIGHT
TO VOTE**

As California's top law enforcement official, I am calling on state policymakers and criminal justice leaders across the nation to speak out against the restrictions on the right to vote being considered and passed by a number of state legislatures. I know how critical public trust in our fundamental government institutions is to promoting and maintaining public safety. The right to vote is fundamental and provides the foundation for all of our democratic institutions. The swelling tide of restrictions on the right to vote, particularly those creating and imposing new criminal penalties on voters, erodes trust in our democracy, as well as the legitimacy of our public institutions, including the justice system. We must reject these efforts to erode voting rights, particularly where the effect is to disenfranchise communities of color and other vulnerable voters, such as those with disabilities.

The claims of widespread voter fraud in the 2020 election were thoroughly investigated, litigated, and refuted. Multiple recounts and audits were conducted. Unfortunately, continued misinformation about the integrity of voting processes in a number of states appear to be fueling a move to create new voting restrictions that harken back to the worst days of Jim Crow, when voting rights for Black Americans and others were intentionally curtailed to support segregationist policies. Our nation is still reckoning with the injustices and harm that occurred as a result of law enforcement and government officials blocking Black Americans from casting ballots for candidates and policies of their choice. This is a time to move forward, not backward; to expand access to voting rights, not curtail it.

Provisions in some of the laws passed already in 2021 include limitations on absentee voting, early voting, and election day voting, including reductions on the time voters have to cast ballots and restrictions on the use of ballot drop boxes and mobile polling places. Provisions like these impose unjustifiable and disproportionate burdens on communities of color, low-income, disabled, and first-time voters, as well as working-class voters, who tend to vote more frequently through alternative avenues such as mail-in voting, early voting, and same-day voter registration. For example, in Georgia nearly 30% of Black voters cast their ballot by mail in 2020, compared to only 24% of white voters. In addition, some laws include provisions that impose unnecessary additional voter identification requirements, which can disproportionately burden these same groups.

Other enacted and proposed state laws create unnecessary criminal penalties for election-related errors and for simple acts that help voters, and are highly troubling as well. For example, Georgia makes it a crime for any person to hand out water and snacks to voters waiting outside in long lines at polling places. Texas has been considering a law that would make it a crime for election officials to provide a vote-by-mail ballot to a voter who has not requested one. These penalties also appear to fall heavily on communities of color. In Georgia, a recent study showed that average wait times in the June primary after polls were scheduled to close was only six minutes in neighborhoods that were at least 90% white, while wait times averaged 51 minutes in areas that were at least 90% nonwhite.¹

Laws of this kind go against our civil rights laws and principles. They discourage people from participating in elections and suppress voter participation. They also make our communities less safe by diverting critical crime-reduction resources away from serious crimes for problems that do not exist, while threatening to further expand the cost and size of our criminal justice system, without support or justification.

It is also deeply concerning that these restrictions come in the wake of record high turnout, particularly by communities of color, during the 2020 election cycle. For example, in Georgia, nearly five million Georgians voted in 2020 in comparison to 4.16 million in the 2016 general election. Also, in Georgia, for the first time in state history, voters elected a Black U.S. Senator. Unfortunately, more laws to curtail access to the franchise appear poised for enactment. Currently, there are as many as 137 voting bills pending in legislative committees across the nation.

California is not immune from these types of actions designed to deprive voters, particularly low-income voters and communities of color, of the fundamental right to vote. For example, in the 1988 general election, Orange County Republican party hired uniformed guards to canvass over twenty polling places in heavily Latino neighborhoods of Santa Ana in search of signs of illegal voting. These guards also carried signs, written in both Spanish and English, warning anyone entering these polling places that only citizens were allowed to vote. The following year, recognizing the harm that these tactics had on the fundamental right to vote, California legislators passed a law making it a felony to post guards at polling places without the permission of local election officials.

In California, we have gone to great lengths to move past this history and jettison any practices with the intent or effect of disenfranchising voters in our most vulnerable communities. The Attorney General's Office is deeply committed to protecting and expanding the voting rights of people in California and across the nation, and to fighting against discriminatory barriers and burdens placed on the right to vote.

During the 2020 election cycle, the Office took numerous actions to protect the rights of Californians and voters across the country. In January, California joined a coalition of 18 states standing up for voting rights in an amicus brief submitted to the U.S. Supreme Court in Brown v. Democratic National Committee, which centered around consolidated challenges to a set of

¹ Fowler, Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places, N.P.R. (Oct. 17, 2020) <<https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl>> [as of June 4, 2021].

Arizona election rules, which were found to discriminate against Black, Latino, and Native American voters in the state. In October, the California Attorney General joined an amicus brief in support of the Minnesota Secretary of State's decision to enter into a consent decree that extended the deadline for when vote-by-mail ballots can be received in Minnesota. In addition, the Office filed a friend-of-the-court brief pushing back on an executive order by the Governor of Texas aimed at limiting the number of official ballot drop-off sites to one per county — even in counties with millions of residents. Moreover, the Office joined an amicus brief in support of a challenge to aspects of the State of Mississippi's vote-by-mail requirements that threatened to exclude voters seeking to avoid exposure to the coronavirus. In California, prior to the election, the Office issued a bulletin to all California law enforcement agencies on voter interference and intimidation laws to ensure consistent application of the law at polling places and voting locations. Later, the Office sent a cease and desist letter — alongside the California Secretary of State — demanding that the California Republican Party stop operating unauthorized ballot drop boxes, resulting in the Party agreeing to stop its unlawful activity.

In September, the California Attorney General, as part of a coalition of attorneys general, secured an early court victory barring a series of changes imposed on the U.S. Postal Service by Postmaster General Louis DeJoy, which slowed the delivery of mail across the country and followed months of false attacks by President Donald Trump on mail-in voting. In August, the California Attorney General filed an amicus brief pushing back on a Florida law attempting to roll back voting rights granted under an earlier felon re-enfranchisement law.

In the 2020 election and in laws enacted previously, California voting law has provided for automatic, same-day, and online voter registration options, early voting, and expansive vote-by-mail access, secure ballot box drop-off options, and a certified remote access vote-by-mail system for military voters, voters living abroad, and voters with disabilities. (E.g., Elec. Code §§ 303.3; 3016.5; 1500; 2102; 2196; 2198; 2170; 300.5; 3001; 3003; 14310.) In addition, California provides a statewide electronic system for voters to track receipt and counting of their vote-by-mail ballot. In the 2020 election, California had record a turnout with 80.67% of registered voters (17.5 million voters) and 70.88% of estimated eligible voters casting a ballot, despite the pandemic.² Rather than restricting ballot access after achieving this accomplishment, California has extended the universal provision of vote-by-mail ballots through 2021. (Elec. Code, § 3000.5.)

Now is a critical time both in our nation's history and for our democracy. Every leader in our nation should be focused on expanding access to the vote and encouraging all eligible voters to go to the polls. Robust and equal participation is essential to the health and well-being of our democracy. It is in our power to avoid repeating the disgraceful, racist mistakes of our nation's past that resulted in disenfranchisement of Black Americans and other people of color. I am calling on state policymakers and criminal justice leaders to condemn measures that by intent or effect restrict access to the ballot for any voter or community of voters. I am also calling on such leaders to stand with me on the right side of history – by lifting up measures that expand and protect the fundamental right to vote, including automatic voter registration, expanded access to online and same-day voter registration, expansion of vote-by-mail and ballot box access, and early voting.

² Sen. Comm. on Elecs. and Const. Amend., Rep. on S.B. 29 (2021-2022 Reg. Sess.) (Jan. 14, 2021).